



Report on Public Policy Position

Name of Section:

Real Property Law Section

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RE:

Amicus brief on Adams v. Adams, Court of Appeals 274497

Date position was adopted:

July 21, 2007

Process used to take the ideological position:

Discussion and vote of the Council of the Section

Number of members in the decision-making body:

17

Number who voted in favor and opposed to the position:

8 voted in favor; one opposed; two abstained.

Position:

See attached.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

Not applicable.

Adams v. Adams
Court of Appeals Case No. 274497

This case involves a number of issues, but the Section has taken a position only on whether a deed recorded on an owner's property provides constructive notice to the owner of an adverse claim such that the limitation period begins to run when the deed is recorded. In this case, Mrs. Adams signed a deed under conditions that were allegedly fraudulent. Mr. Adams recorded the deed apparently without Mrs. Adams knowledge. She did not learn of the deed until years later, and did not file an action to quiet title until 17 years after the deed was recorded. The Court of Appeals held that when the deed was recorded, Mrs. Adams was on constructive notice that her title was in dispute, so the 15-year limitations period began to run at that time. Her quiet title action was therefore dismissed as untimely.

In 1997, MCL 565.25 was amended to provide that a recorded instrument provides notice to all persons except the property owner. But because the deed in this case was dated and recorded before 1997, the statute does not appear to apply. Nevertheless, the Section believes that the common law provides that the recorded

instrument does not provide notice to the property's owner. Therefore, the Section is preparing an amicus curiae brief explaining that Michigan common law does not deem a recorded instrument to provide constructive notice to the owner of the property on which the instrument was recorded.